

THE  
2007  
NETJETS  
PILOTS

# Collective Bargaining Agreement

Plaintiff Exh

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## **SECTION 5: SENIORITY**

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### **5.1 Application of Seniority**

Seniority will govern all crewmembers in cases of promotion and demotion, retention in case of reduction in force, assignment or reassignment to a fleet and duty position, assignment to special assignments, recall after furlough, choice of vacancies, choice of vacation, and schedule bidding.

### **5.2 Seniority Accrual**

Seniority will begin to accrue on the date that a crewmember is first employed by the Company as a crewmember, and will continue to accrue during any period of continuous employment. A crewmember will be considered first employed as a crewmember on the date he first reports to any crewmember-specific required training event at the direction of the Company. When two (2) or more crewmembers are employed on the same date, they will be placed on the Seniority List according to their age; i.e., the oldest crewmember will receive the more senior position on the Seniority List. In the event two or more crewmembers of the same age (i.e., the crewmembers share the same birth date) are hired on the same date, the Company will add the last six (6) digits of the Social Security Number of each crewmember, and award the more senior position to the crewmember with the greater sum.

### **5.3 Seniority List Publication**

The Company will provide to the Union an electronic copy of the Seniority List, compiled in accordance with this subsection 5.3, no later than the fifteenth (15th) day of each month. The Company will post the Seniority List on the Company's website. The thirty (30) day period referred to in subsection 5.3(B) will not begin until the Company posts the Seniority List on its website.

**5.3(A)** The Seniority List will include the following information for each crewmember: (1) name; (2) date of hire; (3) Duty Position; (4) aircraft fleet; (5) termination date of any Lock (e.g., equipment); (6) Supplemental Duty Position, if any; and (7) status as a management crewmember, if applicable. Additional information may be added to the electronic copy of the Seniority List by mutual agreement

**5.3(B)** All crewmembers will be listed on the Seniority List and each crewmember will be permitted a period of thirty (30) days after posting of the Seniority List to protest in writing to the Company any omission or incorrect posting affecting his seniority. Such protest will only concern errors and omissions pertaining to the most recently published Seniority List.

#### **5.4 Probation**

A crewmember will be on probation until he has accumulated twelve (12) months of employment with the Company; provided, his probationary period will be extended for each day the crewmember is: (1) on an approved leave of absence; (2) on furlough; or (3) serving in a management position. During the probationary period, the crewmember may be discharged or disciplined without recourse to the grievance procedure.

#### **5.5 Rights and Restrictions Upon Management Pilots**

##### **5.5(A) Limit on the Number of Management Pilots**

A management pilot is a manager holding a position on the Seniority List. No more than five percent (5%) of the crewmembers on the Seniority List may be classified as management pilots at any time.

**5.5(A)(1)** The limitation set forth in subsection 5.5(A) will not prevent the Company from hiring additional management pilots in the event that an insufficient number of training and/or checking Captains are available to perform training and/or checking duties, as applicable; provided, the Company has not unreasonably withheld posting or awarding Training and Checking positions pursuant to subsection 6.8(B).

##### **5.5(B) Seniority Accrual While Serving in Management**

A management pilot on the Seniority List will retain and accrue seniority; provided, he meets all other requirements set forth in subsection 5.5. Except as provided in subsection 5.5(C), a management pilot will pay a monthly service fee to the Union as set forth in subsection 5.5(G). Except where indicated, the rates of pay, rules, and working conditions set forth in this Agreement will not apply to management pilots. During the time the management pilot performs management du-

ties, the Union will place him on inactive Union status and provide him with a withdrawal card which will remain in effect as long as he pays the monthly service fee. A management pilot will not exercise any Union membership right, including access to the Union hall, secured web sites, or message boards, or otherwise participate in internal Union affairs, until he transfers to or rejoins the craft or class.

### **5.5(C) Temporary Management Positions**

**5.5(C)(1)** The Company may offer, and an individual crewmember may voluntarily accept, a temporary management position. The rules and working conditions set forth in this Agreement will have no application to a crewmember holding a temporary management position. A crewmember holding a temporary management position will be paid pursuant to the base wage table set forth in Section 27 associated with his fleet, duty position, and schedule, regardless of the actual work performed.

**5.5(C)(2)** A crewmember holding a temporary management position will be placed on inactive Union status; provided, the crewmember will continue to pay his regular Union dues in lieu of the service fee set forth in subsection 5.5(G).

**5.5(C)(3)** A crewmember holding a temporary management position will not perform flying duties except (a) when he is being route checked under FAR 135.299 or (b) when he is flying under the provisions of subsection 5.5(D) and the duty tour flown contains a published NetJets peak period day.

**5.5(C)(4)** A temporary management position will not exceed six (6) calendar months in duration. The Company will notify the affected crewmember and Union in writing of the expected duration of the position. The Company will not offer a crewmember more than one (1) temporary management position in a rolling twelve (12) month period.

**5.5(C)(5)** The Company or the crewmember holding a temporary management position may end the temporary management

arrangement at any time. A crewmember who vacates a temporary management position will receive at least three (3) duty free days prior to commencing duty on his awarded or assigned work schedule.

**5.5(C)(6)** Notwithstanding the provisions of subsections 5.5(C)(1) and 19.2(D)(1), a crewmember performing temporary management duties maintains a right to bid and be awarded (or assigned) a work schedule in accordance with the provisions of Section 19 to facilitate his return to line flying operations at the conclusion of the temporary management assignment.

**5.5(C)(7)** Notwithstanding the provisions of subsection 5.5(C)(1), a crewmember performing temporary management duties may maintain and be awarded a bid pursuant to Section 15. A crewmember in a temporary management position will, at the time of the award, be given the choice of: (1) accepting the award and returning to line flying or (2) accepting the award and deferring the training to a later date to be established by the Company following the cessation of temporary management duties.

#### **5.5(D) Limitation on Management Pilot Line Flying**

A management pilot will be restricted to a maximum of seven (7) Company-scheduled workdays containing flight duty each month; provided, flying by management pilots will not result in the furlough or demotion of a line crewmember. The seven (7) day flight duty limitation contained in this subsection 5.5(D) does not apply to training or checking activities other than IOE training. Management pilots may perform Initial Operating Experience ("IOE") training without restriction if an insufficient number of IOE Training Captains are available to perform such training; provided, the Company has not unreasonably withheld posting or awarding IOE training positions pursuant to subsection 6.8(B).

**5.5(D)(1)** Subject to the management flying provisions set forth in this subsection 5.5, a management pilot may be assigned to any aircraft fleet, regardless of his relative seniority.

**5.5(D)(2)** A management pilot may fly as a Captain or perform duties associated with a Supplemental Duty Position unless he is junior to all non-management Captains on the Seniority List. The limitation in this subsection 5.5(D)(2) will not apply: (a) to a management pilot in a fleet containing three (3) or fewer management pilots who are senior to at least one (1) Captain on the Seniority List; (b) to a management pilot in a fleet in permanent fleet reduction status, as defined in subsection 3.55; or (c) when more than ten percent (10%) of management pilots in the fleet are junior to all Captains on the Seniority List.

### **5.5(D)(3) Checking by Management Pilots**

**5.5(D)(3)(a)** A management pilot permitted to perform Supplemental Duty Position duties pursuant to subsection 5.5(D)(2) will only conduct proficiency checks when: (1) an insufficient number of Check Airmen are available to perform the check; provided, the Company has not unreasonably withheld posting or awarding Check Airmen positions pursuant to subsection 6.8(B); (2) the Manager is maintaining currency under the Federal Aviation Regulations; (3) the Manager is reviewing another crewmember due to a Union Training Committee request; or (4) the Manager is acting as a “different” Check Airman as set forth in subsection 6.7(G).

**5.5(D)(3)(b)** The restrictions set forth in subsection 5.5(D)(3)(a) do not apply: (1) to a management pilot in a fleet containing three (3) or fewer management pilots who are senior to at least one (1) Captain on the Seniority List; or (2) to a management pilot in a fleet in permanent fleet reduction status, as defined in subsection 3.55.

### **5.5(E) Removal from Management**

A management pilot removed from his management position and retained by the Company may transfer or return to active line flying status as set forth in this subsection 5.5, Section 19, and any other applicable provision of this Agreement.

**5.5(F) Protections for Line Pilots**

A management pilot transferring or returning to line flying will not cause a furlough or prevent a more senior crewmember from being recalled from furlough.

**5.5(G) Management Pilot Service Fees**

A management pilot will remit to the Union a service fee, which will be assessed and paid based on the service fees calculated in accordance with the provisions of this subsection 5.5(G).

**5.5(G)(1)** A simulated monthly income will be established for a management pilot by referencing, based on his years of service, the highest base wage table set forth in subsection 27.1 that most closely approximates, but does not exceed the manager's actual base salary. A management pilot will use the Captain wage tables if he is senior to at least one Captain on the Seniority List. A management pilot will use the First Officer wage tables if he is not senior to at least one Captain on the Seniority List. The Company will review and update the simulated monthly income calculations on an annual basis. The Company's calculations may be verified if requested by the Union by a third-party auditor mutually agreeable to the parties. The auditor will not disclose actual management salaries. The Company will bear the cost of the audit.

**5.5(G)(2)** The service fee calculations resulting from the application of the terms of this subsection 5.5(G) will be made by the Payroll Department and reported to the Union no later than thirty (30) days following the ratification date of this Agreement. Subsequent changes to these calculations will be reported regularly to the Union as they occur.

**5.5(H) Management Pilot Medical Certification**

A management pilot will maintain and provide to the Company a current medical certificate in the same manner as other crewmembers on the Seniority List. A management pilot who is unable to maintain at least a second class medical certificate is subject to removal from the Seniority List in the same manner as other crewmembers on the Seniority List.

### **5.5(I) Management Pilots Returning to Line**

Management pilots returning to line-flying will be assigned to an aircraft fleet and duty position in the same manner as crewmembers returning to line flying from leaves of absence as set forth in subsection 16.1(E).

A management pilot returning to line-flying will not resume a Supplemental Duty Position other than a Supplemental Duty Position he held prior to becoming a management pilot.

### **5.6 Temporary Removal of Aircraft Fleet**

In the event an aircraft fleet is removed from operational service with the Company for a period of time expected to exceed ninety (90) days, and the aircraft fleet is anticipated to return to service with the Company, the crewmember(s) in the fleet may be assigned via inverse seniority to a different aircraft fleet. In the event the fleet is returned to operational service within twenty-one (21) months from the date of its removal, the crewmember(s) originally displaced will have the right, but not the obligation, to resume operation of the aircraft without the application of any bidding procedures; provided, insufficient availability of the crewmember(s) who were in the fleet prior to displacement will result in the Company utilizing the bidding procedures set forth in Section 15.

### **5.7 Permanent Fleet Reduction/Elimination and Crewmember Displacement Procedures**

**5.7(A)** In the event the Company (1) totally eliminates or permanently reduces the number of aircraft in a particular fleet/program, and (2) the elimination or reduction of aircraft causes the fleet/program to be over-staffed as provided in Section 3.41, the Company will displace crewmembers from the affected fleet/program according to the following procedures:

**5.7(A)(1)** The Company will seek volunteers (by written notification to the affected crewmembers' residence) from among all the crewmembers in the overstaffed fleet/program for the purpose of moving the volunteers to positions the Company has determined exist in other aircraft fleets/programs. The positions determined by the Company will be provided in the notifications sent to the crewmembers. Crewmembers in the affected fleet may volunteer

to move into the listed positions by sending written notification to the Director of Operations or his designee within twenty (20) days after the notice requesting volunteers is sent by the Company. Positions provided in the notification to affected crewmembers will be filled in seniority order among any volunteer crewmembers in the affected fleet/program exclusively. Positions created pursuant to this subsection will be in crew pairs (i.e., for every Captain position created, there will be an equal number of First Officer positions created) until no First Officers exist in the affected fleet, at which time, positions created pursuant to this paragraph will be equal to displacements.

**5.7(A)(2)** If the Company receives an insufficient number of volunteers from among crewmembers in the affected fleet to fill the positions identified by the Company in subsection 5.7(A)(1), crewmember displacement from the affected fleet will occur in inverse seniority order to fill said positions in order of crew pairs (i.e., an equal number of the most junior Captains and an equal number of the most junior First Officers without regard to duty assignment). All volunteers will be assigned to their preferred position in seniority order before any crewmember is involuntarily assigned pursuant to this paragraph.

**5.7(A)(3) Pay for Displaced Crewmembers - All Crewmembers**  
Except as provided in subsections 5.7(A)(3)(a) and (b), below, all crewmembers who are displaced pursuant to subsection 5.7 will receive the pay rate corresponding to the new position into which they were placed.

**5.7(A)(3)(a)** A crewmember displaced from an aircraft with a MTOW greater than 40,000 lbs. with a transatlantic range equal to or greater than the Falcon 2000EX-EASy who could hold the same duty position in any other aircraft with a MTOW greater than 40,000 lbs. with a transatlantic range equal to or greater than the Falcon 2000EX-EASy (i.e., because his seniority is greater than at least one Captain or First Officer, which is applicable, in such aircraft) will be paid pursuant to the MTOW greater than 40,000 lbs. with a transatlantic range

equal to or greater than the Falcon 2000EX-EASy Captain Wage Scale or First Officer Wage Scale, whichever is applicable, until such time as: (1) he bids and is awarded a position in any other aircraft; (2) his seniority would no longer permit him to hold a Captain or First Officer position, whichever is applicable, in an aircraft with a MTOW greater than 40,000 lbs. with a transatlantic range equal to or greater than the Falcon 2000EX-EASy ; or (3) all aircraft with a MTOW greater than 40,000 lbs. with a transatlantic range equal to or greater than the Falcon 2000EX-EASy have been eliminated.

**5.7(A)(3)(b)** A First Officer displaced from an aircraft with a MTOW greater than 40,000 lbs. who is senior to at least one Captain on the Seniority List may forfeit any pay protection provided by operation of 5.7(A)(3)(a), above, and request placement in a Captain vacancy. The Company will promptly assign the displaced crewmember to a Captain vacancy that the Company creates or has available in another aircraft fleet.

**5.7(B)** A displaced Captain will be placed in a Captain position unless his seniority could not hold the post-transfer Captain position (i.e., the Captain is the most junior Captain in the bargaining unit, in which case he will be placed in a First Officer position).

**5.7(C)** Displaced crewmembers will be held to the remainder of the equipment and/or seat lock in effect at the time they were awarded a bid or were involuntarily transferred pursuant to this paragraph but will not incur any additional equipment lock as a result of this paragraph.

**5.7(D)** Subsection 5.7 will not apply unless aircraft have actually been removed. Projected removal dates will not control. Subsection 5.7 will be administered on an aircraft-by-aircraft basis.

#### **5.7(E) Fleet Retention**

In the event an aircraft fleet in permanent fleet reduction status reaches a staffing level of less than five (5) crewmembers per aircraft in the fleet, the Company will seek volunteers to remain in the fleet. In the event of insufficient volunteers, the Company may, if necessary, require

crewmembers to remain in the fleet. The Company right to require a crewmember to remain in the fleet will be applied by inverse seniority by position (i.e., Captain or First Officer) and for a maximum of one (1) year from the date of applicable bid award, or until there are five (5) or more crewmembers per aircraft in the fleet.. Regardless of whether a person volunteered or was required to remain in the fleet by inverse seniority assignment, the equipment lock associated with his last bid award will continue to run while he remains in the fleet (beginning the effective date of the bid award) and he will receive the higher of the base wage associated with his current position or the bid award. Sub-sections 5.5(D)(2) and 5.5(D)(3) will have no application when this sub-section 5.7 is in effect.

## **5.8 Aircraft Fleets**

A new aircraft model that is not substantially different than an existing Net-Jets aircraft fleet or model, as determined by reference to the criteria set forth in subsection 5.8(A), will receive a same fleet designation. A new aircraft model that is substantially different than existing NetJets aircraft fleet or model will receive a new and separate fleet designation. Aircraft requiring different type ratings will be designated as a separate fleet.

### **5.8(A) Substantial Difference Criteria**

An aircraft will be deemed substantially different if the incorrect application of knowledge related to the following factors, taken independently or together, will have a significant adverse impact on aircraft safety or is substantially likely to cause damage to the aircraft:

#### **5.8(A)(1) Airframe**

Airframe factors include fuselage length, wingspan, and/or airfoil dimensions that affect flight performance and flight handling characteristics of the aircraft.

#### **5.8(A)(2) Powerplant**

Powerplant factors (e.g., engine manufacture and/or model number) include engine characteristics that require a crewmember to know substantially different sets of memory items and/or limitations to address a similar condition.

**5.8(A)(3) Major Aircraft Systems**

Major aircraft systems factors include hydraulics, electrical, environmental, pressurization, anti-ice/de-ice systems, or new systems that require a crewmember to know substantially different sets of memory items and/or limitations to address a similar condition.

**5.8(A)(4) Avionics/Crewmember Interface**

Avionics/Crewmember Interface factors include characteristics of the Pilot Flight Display (“PFD”), Multi-Function Display (“MFD”), Heads-Up Display(“HUD”), Enhanced Vision System (“EVS”), and/or Flight Management System (“FMS”) (not including software revisions and/or updates) that require a crewmember to know substantially different sets of memory items and/or limitations to address a similar condition.

**5.8(A)(5) Standard Operating Procedures, Aircraft Profiles, Aircraft Operations Manual, Aircraft Flight Manual, Flight Operations Manual**

Standard Operating Procedures, Aircraft Profiles, Aircraft Operations Manual, Aircraft Flight Manual, Flight Operations Manual factors include substantial differences between the procedures to address a similar condition.

**5.8(B) Crewmember Fleet Duty Assignment**

Crewmembers will only maintain a duty assignment in one (1) fleet. A crewmember holding a Supplemental Duty Position may only be assigned supplemental duties in the fleet to which he is assigned.

**5.8(C) Aircraft Fleet Designations**

The following aircraft within each subsection are designated a single fleet:

1. Hawker 400XP
2. CE-560 Ultra
3. CE-560 Encore
4. CE-560XL, CE-560XLS
5. Hawker 800XPH (Honeywell)
6. Hawker 800XPC (Collins), 800XPi

7. CE-680 Sovereign
8. CE-750
9. G-200
10. Falcon 2000
11. Falcon 2000 EXEASy
12. BBJ

The aircraft fleet designations set forth in subsection 5.8(C) are not subject to change absent mutual consent.

#### **5.8(D) Aircraft Fleet Determination**

The Union will be notified at least 120 days prior to the delivery of a new aircraft. The Union will submit recommendations concerning the classification of the new aircraft into a separate or an existing fleet within twenty (20) days. Immediately thereafter, the parties will meet and confer to determine the appropriate classification of the new aircraft. The parties may consider the factors identified in subsection 5.8(A), the classification of aircraft into separate or existing fleets in subsection 5.8(C) or associated letters of agreement, and other relevant factors (including industry standards and manufacturer/governmental guidance) in making their recommendations.

#### **5.8(E) Dispute**

In the event that the parties are unable to reach agreement concerning the appropriate classification of a new aircraft model, either party may, no later than twenty (20) days after receipt of the Union's recommendations pursuant to subsection 5.8(D), submit the dispute to arbitration on an expedited basis in accordance with the provisions of subsection 1.16. The neutral arbitrator will be selected from the panel set up pursuant to subsection 1.11(G). The dispute will be heard within thirty (30) days of submission to arbitration (or at the earliest available dates), and decided as soon as possible thereafter. In the event that the arbitrator is unable to issue a written decision and order within thirty (30) days prior to scheduled aircraft arrival, he may provide a written decision at such time, with a written opinion to follow within fifteen (15) days. The arbitrator may consider the factors identified in subsection 5.8(A), the classification of aircraft into separate or existing fleets in subsection 5.8(C) or associated letters of agreement, and other relevant factors (including

industry standards and manufacturer/governmental guidance) in reaching his decision.

In the event that the Company takes operational steps toward establishing a separate fleet for the new aircraft or including the aircraft in an existing fleet (e.g., training, operation, etc.), neither party will refer to such operational steps in an arbitration proceeding conducted pursuant to this subsection.

[End Section 5]

## **SECTION 21: GRIEVANCE PROCEDURE**

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### **21.1(A) Notice of Discipline or Discharge**

In the event the Company alleges just cause to discharge or otherwise discipline any crewmember, it will do so by notifying the crewmember and Union in writing of such action, which notice will take effect as of the date of receipt by the crewmember. The written notice will identify the contract provision, rule or policy allegedly violated; a summary of the crewmember's alleged conduct, including date and location of the incident; and the level of discipline imposed by the Company, if any. If a meeting is held between the parties, the written notice will be presented at the meeting, if not previously provided. If the Company and the Union agree not to hold a meeting, the written notice will be provided by mail or another agreed upon method. Nothing contained herein will be construed to prevent the Company from removing a crewmember from flight duty prior to receipt of the written notice; provided, the written notice referred to above is provided within forty-eight (48) hours of removing the crewmember from flight duty.

### **21.1(B) Notice of Administrative Leave**

Recognizing that circumstances may require the Company to place a crewmember on administrative leave pending the outcome of an investigation, and that placement on administrative leave is not evidence in and of itself of any misconduct on the part of the crewmember, the Company will provide written notice to the crewmember and the Union that is similar to the written notice in accordance with subsection 21.1(A) above within forty-eight (48) hours of placing the crewmember on administrative leave.

### **21.1(C) Filing Grievances Concerning Disciplinary Matters (including Discharge)**

A grievance over discipline, discharge, or placement on administrative leave must be filed by the Union or crewmember within ten (10) days after receipt of the written notice referred to in Sections 21.1(A) and (B) above. A hearing will be held on the grievance within ten (10) business days of its filing, or longer, if mutually agreed to by the parties.

## **21.1(D) Company Hearing and Contact Procedure Upon Receipt of Grievance**

Within the first ten (10) business days of receiving a grievance, the Labor Relations Department will attempt to hold a grievance hearing through direct contact with the grievant. If the grievant is unresponsive to the first attempt of direct contact, the Company will attempt one (1) additional direct contact within the ten (10) business day period. The primary means of Company contact in both attempts will be the telephone number(s) listed on the grievance form. In addition, the Company will follow up each primary telephone contact attempt with a secondary contact attempt via Company issued electronic device (e.g., pager or Blackberry). In the event the grievant does not respond to all contact attempts, the Labor Relations Department will, within ten (10) business days of receiving the grievance, announce its decision in writing to the grievant with copies to the Business Agent of the Union.

## **21.1(E) Information Requests**

The Company will provide the Union, upon request, with information reasonably necessary to enable it to investigate and determine the merits of a grievance. Upon request, the Union will provide the Director of Labor Relations or his designee with exculpatory information discovered during the Union's investigation of a grievance over discipline or discharge and information in support of the Union's position regarding a grievance not involving discipline or discharge. The exchange of requested information by both parties will occur at least three (3) business days prior to the date of the grievance hearing unless another time is mutually agreed to by the Director of Labor Relations or his designee and the Union.

**21.1(E)(1)** The Company will, upon request, provide the Union with name(s) of any witnesses, copies of witness statements, investigatory and interview notes related to the alleged misconduct and the imposition of discipline or discharge; provided, such information is not covered by the attorney-client privilege.

## **21.1(F) Company Decision on Grievances Concerning Disciplinary Matters (including Discharge)**

Within ten (10) business days after the close of the grievance hearing

or date that the parties agreed to waive such hearing, or in the case of a non-responsive grievant, within ten (10) business days of receiving the grievance, the Company will issue its decision in writing to the crewmember and provide a copy to the Union. A copy will be sent by certified mail to the crewmember's home address.

## **21.2 Filing Grievances Concerning Non-Disciplinary Matters.**

A grievance filed by the Union or crewmember not involving discipline, discharge or placement upon administrative leave, will be adjusted in accordance with the following procedure:

**21.2(A)** The grievance must be filed within thirty (30) days after the Union, on its own, or by and through any crewmember has, or reasonably would have had, knowledge of the matter giving rise to the grievance. In the event the thirtieth (30th) day falls on a weekend it will be recognized as the first business day following the weekend. When crewmembers have a common grievance, they will select a representative to act in their behalf. A hearing will be held on the grievance within ten (10) business days, or longer, if mutually agreed to by the parties.

## **21.2(B) Company Hearing and Contact Procedure Upon Receipt of Grievance**

Within the first ten (10) business days of receiving a grievance, the Labor Relations Department will attempt to hold a grievance hearing through direct contact with the grievant. If the grievant is unresponsive to the first attempt of direct contact, the Company will attempt one (1) additional direct contact within the ten (10) business day period. The primary means of Company contact in both attempts will be the telephone number(s) listed on the grievance form. In addition, the Company will follow up each primary telephone contact attempt with a secondary contact attempt via Company issued electronic device (e.g., pager or Blackberry). In the event the grievant does not respond to all contact attempts, the Labor Relations Department will, within ten (10) business days of receiving the grievance, announce its decision in writing to the grievant with copies to the Business Agent of the Union.

## **21.2(C) Information Requests**

The Company will provide the Union, upon request, with information reasonably necessary to enable it to investigate and determine the merits of a grievance. Upon request, the Union will provide the Director of Labor Relations or his designee with information discovered during the Union's investigation of a grievance in support of the Union's position. The exchange of requested information by both parties will occur at least three (3) business days prior to the date of the grievance hearing unless another time is mutually agreed to by the Director of Labor Relations or his designee and the Union.

**21.2(C)(1)** The Company will, upon request, provide the Union with information relevant to the application or administration of the particular provision of the Agreement, rule, policy, or procedure that underlies the grievance. Depending upon the nature of the grievance, information may include copies of particular rules, policies or procedures, evidence of how the applicable provision of the Agreement, rule, policy or procedure has been administered in the past, grievance settlements, or System Board of Adjustment decisions.

## **21.2(D) Company Decision on Grievances Concerning Non-Disciplinary Matters**

Within ten (10) business days after the close of the grievance hearing or date that the parties agreed to waive such hearing, or in the case of a non-responsive grievant, within ten (10) business days of receiving the grievance, the Company will issue its decision in writing to the crewmember and provide a copy to the Union. A copy will be sent by certified mail to the crewmember's home address.

## **21.3 Report and Location of Hearing**

**21.3(A)** When it is mutually agreed that a stenographic report is to be taken of the grievance hearing in whole or in part, the cost will be borne equally by both parties to the dispute. In the event it is not mutually agreed that a stenographic report of the hearing will be taken, any stenographic report taken by either of the parties to the dispute will be furnished to the other party to the dispute upon request, provided that the cost of such written record will be borne equally by both parties to the dispute.

**21.3(B)** The hearing will be held at the Company's facility in Columbus, Ohio, unless otherwise agreed to by the Union and the Company. Except as provided elsewhere in the Agreement, the Company is not required to release a crewmember or Union representative from conflicting duty for the purpose of conducting any grievance hearing, nor is the Company required to pay the travel costs associated with a crewmember or Union representative who elects to travel to the Company's facility in Columbus, Ohio, for the purposes of attending a grievance hearing. In the case of a grievance hearing concerning a terminated crewmember, the Union may request a Union representative familiar with the case be released from conflicting Company duty to conduct the grievance hearing. The Company will not unreasonably refuse such a Union request.

#### **21.4 Appeals to System Board of Adjustment**

**21.4(A)** If any Company decision rendered pursuant to Section 21.1 and/or Section 21.2 is unsatisfactory to the Union, appeal by the Union, on its own, or by and through a crewmember or crewmembers, if made, will be to the Company System Board of Adjustment, provided such appeal is made within thirty (30) days from the date of receipt by the crewmember(s) or the Union representative of the decision of the Company. All submissions to the System Board of Adjustment will be made in conformity with Section 22.

**21.4(B)** If any Company decision is not appealed by the Union, on its own, or by and through a crewmember or crewmembers within the time limits prescribed herein for such appeal, the decision of the Company will become final and binding. Time limits may be extended by mutual agreement in writing.

**21.4(C)** If the Company fails to render a decision in writing within the time limits set forth in subsections 21.1 and/or 21.2, the grievance will proceed automatically to the System Board of Adjustment.

**21.4(D)** If the Company's answer to a grievance is appealed to the System Board of Adjustment, the Company will provide the Union, upon request, with any additional information that is relevant to the issue.

underlying the grievance (e.g., records of how other crewmembers have been disciplined for the same or similar offense, data compiled in support of the Company's position with respect to the grievance). Upon request, the Union will provide the Company with any additional information that is relevant to the issue underlying the grievance.

**21.4(E)** The requested information referred to in Section 21.4(D) will be provided as soon as practicable before the SBA hearing but not later than five (5) business days prior to the SBA hearing, provided the request for information is made not less than fifteen (15) business days prior to the hearing. If either party requests information less than fifteen (15) days prior to the SBA hearing, the other party will make a reasonable effort to provide the requested information as soon as possible before the hearing.

## **21.5 Grievance Mediation**

Grievance mediation may occur at any time after a grievance has been filed. Utilizing grievance mediation does not limit or waive the Union's right to process a grievance to the System Board of Adjustment or arbitration if no satisfactory outcome is reached. The use of grievance mediation does not alter or limit the Company or the Union's obligations under Section 21 or Section 22 with respect to timely grievance answers or appeals unless otherwise agreed to in writing by the parties. Legal counsel for the Company and the Union will not participate in grievance mediation.

Grievance mediation procedures will be agreed to by the Director of Labor Relations or his designee and the Union, in consultation with the National Mediation Board. Grievance mediation is non-binding unless otherwise agreed to by the parties on a case-by-case basis. The parties will make a reasonable effort to identify mediators who will be readily available to conduct grievance mediation. In order to maximize the effectiveness of grievance mediation, the Director of Labor Relations and/or his designee(s) and the Union will attend together a National Mediation Board grievance mediation training event as soon practicable, if not already accomplished, and any other such training that is mutually agreeable.

## **21.6 Expedited Arbitration**

The first Wednesdays and Thursdays of March, June, September, and De-

ember of each year are designated Expedited Arbitration Days. The Union may elect to submit to expedited arbitration any grievance deadlocked by the System Board of Adjustment in accordance with Section 22 of the Agreement rather than utilizing the arbitration process set forth in Section 22. The expedited arbitration procedures are as follows:

**21.6(A)** The parties will make a reasonable effort to mutually agree upon an arbitrator who, upon acceptance of his or her appointment, will serve a one (1) year term, which may be extended by agreement between the parties. In the event the parties cannot agree upon an arbitrator, the Union will petition the National Mediation Board for a panel of arbitrators. The parties will strike names from the panel. The last arbitrator remaining will be offered the appointment. If the arbitrator does not accept the appointment, the parties will promptly decide whether to offer an appointment to another arbitrator on the original panel or to obtain a second panel and repeat the procedure set forth in this paragraph until an arbitrator accepts appointment.

**21.6(B)** The Director of Labor Relations or his designee and the Union will present to the arbitrator at the expedited hearing a statement of position, including exhibits, affidavits, and other documentary evidence. The parties will exchange their respective position statements no later than ten (10) business days prior to the hearing date. The parties may also submit rebuttal position statements to the arbitrator, provided a copy is served upon the other party no less than three (3) business days prior to the hearing. The Union and Company's legal counsel will not directly participate in an expedited arbitration hearing, excluding any expedited arbitration proceeding specifically referenced in another Section of this Agreement.

**21.6(C)** An individual grievant or class representative may be present during the proceeding at the Union's discretion. The arbitrator may ask questions of the grievant or class representative, but neither party will have the right to call or to cross-examine witnesses unless agreed to in advance by the parties. Except for discipline and discharge cases, no transcript of the proceedings will be made unless by mutual agreement of the parties. Each party will have the right to make an opening statement, present evidence, make a rebuttal statement, and make a closing statement.

**21.6(D)** The arbitrator's jurisdiction and authority will be as set forth in Section 22 of the Agreement. The parties will request that the arbitrator issue a decision within three (3) business days from the close of the proceeding. The decision will be in writing stating the basis for the decision. The decision will be final and binding upon the parties and fully enforceable pursuant to the provisions of the Railway Labor Act, as amended. The arbitrator's fee will be borne equally by the parties. All other expenses will be borne by the party incurring them.

[End Section 21]

## **SECTION 22: SYSTEM BOARD OF ADJUSTMENT**

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### **22.1 Compliance with the Railway Labor Act**

**22.1(A)** In compliance with Section 204, Title II, of the Railway Labor Act, as amended, there is hereby established a System Board of Adjustment, which will be known as the “NJA Pilots System Board of Adjustment” (hereinafter the “Board” or “SBA”).

**22.1(B)** The Board’s purpose will be to adjust and decide disputes which may arise under the terms of this Agreement when such disputes have been properly submitted to the Board.

### **22.2 Composition of the Board**

**22.2(A)** The Board will consist of four (4) members, two (2) of whom will be selected and appointed by the Union and two (2) of whom will be selected and appointed by the Company. Such appointees will be known as “Board Members.”

**22.2(B)** The two (2) Board Members appointed by the Union and the two (2) Board Members appointed by the Company will serve for one (1) year from date of their appointment, and, thereafter until their successors have been duly appointed. Vacancies will be filled in the same manner as is provided herein for the selection and appointment of the original Board Members.

**22.2(C)** The Board Members will select a Chairman and a Vice Chairman, both of whom will be members of the Board. The term of office of the Chairman and Vice Chairman will be one (1) year. Thereafter, from year to year, the Board will designate one (1) of its members to act as Chairman and one (1) to act as Vice Chairman for one (1) year terms.

**22.2(D)** The Office of the Chairman will be held and filled alternately by the Board Member appointed by the Union and by a Board Member appointed by the Company. When a Board Member appointed by the Union is the Chairman, a Board Member appointed by the Company will be Vice Chairman, and vice versa. Subject to the provisions of Sec-

tion 22.5(a), the aforesaid Chairman, or, in his absence the Vice Chairman, will preside at meetings of the Board and at hearings. Both will have a vote in connection with all actions of the Board.

**22.2(E)** The Board will meet, with all members present, in Columbus, Ohio (unless a different place of meeting is agreed upon by the Union and the Company). Such meetings will be convened during the second week in February, May, August, and November each year, provided at such times there are cases filed with the Board for consideration, and will continue in session until all matters before it have been considered, unless otherwise mutually agreed upon.

**22.2(F)** Notwithstanding the provisions of Section 22.2(E), if at least two (2) members of the Board consider a matter of sufficient urgency and importance, then at such earlier date and at such place as the Chairman and Vice Chairman will agree upon, but not more than fifteen (15) days after such request for a meeting is made by at least two (2) of said members, a meeting will be held. The Chairman will give the necessary notice in writing of such meeting to the Board Members and to the parties to the dispute.

### **22.3 Jurisdiction of the Board**

**22.3(A)** The Board will have jurisdiction over disputes between any crewmember covered by this Agreement and the Company growing out of grievances or out of interpretation or application of any of the terms of this Agreement. The jurisdiction of the Board will not extend to proposed changes in hours of employment, rates of compensation or working conditions covered by existing agreements between the parties hereto. The Board will have no authority to modify, amend, revise, add to, or subtract from any of the terms or conditions of this Agreement.

### **22.4 Proceedings Before the Board**

**22.4(A)** All disputes properly submitted to the Board for consideration will be addressed to the Chairman with a copy to the Director of Labor Relations and to the Union. Five (5) copies of each petition, including

all papers and exhibits in connection therewith, will be forwarded to the Chairman, who will promptly transmit one (1) copy thereof to each member of the Board. Each case submitted will show:

- (1) Question or questions at issue;
- (2) Statements of fact out of which the dispute arose and the particular provisions of the agreement, if any alleged to have been violated;
- (3) Positions of crewmember or crewmembers; and
- (4) Position of Company.

**22.4(B)** When desired, joint submission may be made, but if the parties are unable to agree upon a joint submission, then either party may submit the dispute and its position to the Board with copies to the Company and the Union. The thirty (30) day period provided in Section 21.4(A) of this Agreement will run from the date of postmark of the submission.

**22.4(C)** Upon receipt of the submission of a dispute, the Chairman will set a date for hearing, which will be at the time of the next regular meeting of the Board, or, if at least two (2) members of the Board consider the matter of sufficient urgency and importance, then at such earlier date and at such place as the Chairman and Vice Chairman will agree upon, but not more than fifteen (15) days after such request for meeting is made by at least two (2) of said members, and the Chairman will give the necessary notice in writing of such meeting to the Board Members and to the parties to the dispute.

**22.4(D)** Crewmembers covered by this Agreement may be represented at the Board hearings by such person or persons as they may choose and designate. The Company may be represented by such person or persons as it may choose and designate. Evidence may be presented either verbally or in writing, or both. On request of two (2) members of the Board, or at the request of either the Union representatives or the Company representatives, the Board will summon any witnesses who are employed by the Company.

**22.4(E) Decisions of the Board Will Occur By Majority Vote**

Deliberation of Board Members in Executive Session after the submission of the case will not exceed four (4) hours. If the Board fails to reach a decision within this period of time, the case will be treated as a deadlock and will be referred to the procedure established by Section 22.5. By unanimous consent, the Board Members may mutually agree to extend this period.

**22.4(F)** Decisions of the Board in all cases will be rendered no later than forty-five (45) days after the close of hearings and will be final and binding.

**22.5 Procedures in Event of Deadlock**

**22.5(A)** When the Board deadlocks in any case, it will promptly notify the parties to the case of such deadlock, including the date thereof. The members of the Board will also notify the parties that the services of a fifth member of the Board are desired. The fifth member of the Board (arbitrator) will be selected by the following method:

**22.5(A)(1)** Within ten (10) days after proper notification, the Company and Union will select an arbitrator by mutual agreement from the panel set forth in section 22.5(c). If agreement is reached, the parties will advise the members of the Board of the name and address of the referee. If no agreement is reached within the ten (10) day period, the fifth member will be selected by alternate strikes. The first strike will be determined by a coin toss.

**22.5(B)** If neither the Company nor the Union serves notice that the services of an arbitrator are desired within ten (10) days after receipt of notice from the Board pursuant to Section 22.5(A), the Board will have no further jurisdiction in that case and the controversy will be considered as withdrawn.

**22.5(C) Selection of Arbitration Panel**

**22.5(C)(1)** The Union and the Company will, by mutual agreement, establish a list of Arbitrators to serve as the neutral member of the

five (5) member Board. There will be a minimum number of seven (7) Arbitrators on the list. If the parties cannot agree on the Arbitrators to be included on the list, either party may request from the National Mediation Board, a panel of twenty (20) names of experienced airline industry Arbitrators, all of whom are members of the National Academy of Arbitrators. The parties will use that panel to complete the list of seven (7) Arbitrators. Upon request of either the Union or the Company, the list of acceptable Arbitrators will be reviewed annually for additions or deletions.

**22.5(C)(2)** Either the Union or the Company, by written notice to the other, may at any time and without cause, remove any of the named Arbitrators. If arbitration dates have been reserved with the removed Arbitrator, the parties will cancel those future dates, and the party requesting the removal of said Arbitrator will be responsible for any cancellation fees that may be incurred as a result of the cancellation of future dates. The removed Arbitrator will be replaced during the parties' annual review of the Arbitrators list.

**22.5(D)** When the fifth member is selected, the Board will, within twenty (20) days, arrange for a hearing of the dispute, including the presentation of such witnesses and evidence as the five (5) member Board will in its discretion permit. A decision of a majority of the Board sitting with the fifth member will be final and binding upon the Parties. Such decisions will be rendered within thirty (30) days after the close of the hearing. The parties may mutually agree to convene the Board with the fifth member only, the fifth member plus one (1) member from each of the parties, or the full Board. Absent agreement, the full Board will convene with the fifth member.

**22.5(E)** The time limits specified in this Section may be extended by mutual agreement between the parties to this Agreement in writing.

**22.5(F)** The Board will maintain a record of all matters submitted to it for its consideration and of all findings and decision made by it.

**22.5(G)** Each of the parties will assume the compensation, travel expense, and other expenses of the witnesses called or summoned by it. Witnesses who are employees of the Company will receive, subject to availability of space, free transportation over the lines of the Company from the point of duty or assignment to the point at which they must appear as witnesses and return.

**22.5(H)** The Chairman and the Vice Chairman, acting jointly, will have the authority to incur such expenses as, in their judgment, may be deemed necessary for the proper conduct of the business of the Board and such expense will be borne one-half (1/2) by each of the parties. Board Members who are employees of the Company will be furnished, subject to availability of space, free transportation for the purpose of attending meetings of the Board. Where Board expenses authorized would exceed \$500 per party, the Board will request authorization for such expenditures from the parties.

**22.5(I)** Each and every Board Member will be free to discharge his duty in an independent manner, without fear that his individual relations with the Company or with the crewmembers may be affected in any manner by any action taken by him in good faith in his capacity as a Board Member. Board Members while serving as such will continue to receive their monthly guaranteed pay, but will receive no other compensation or reimbursement for expenses from the Company.

**22.5(J) Electronic Storage of SBA and Arbitration Decisions**

SBA and arbitration decisions, including the parties' respective written submissions to the Board, will be stored on a compact disc or similar data storage device, updated copies of which will be provided to the Director of Labor Relations, or his designee, the Union, and members of the SBA. Compact discs will be updated within thirty (30) days following completion of an SBA or arbitration proceeding. The parties will jointly work on the initial storage of the foregoing information and periodic updates as provided herein.

**22.5(K) Arbitration Subpoena and Witnesses**

Without limiting the information sharing provisions set forth in the Agreement, the right of the parties to subpoena information and wit-

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